

UNUS No. 96-0387-UNI  
Case No. F7340(V)

### **REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

The present invention is directed to the discovery that fat compositions can be structured by use of a gel which includes a combination of phenolic acid esters of sterols, together with sterols. "Sterol esters" in the specification is defined at page 4, lines 11-12. By use of this gel, standard structuring agents such as saturated fats can be reduced.

Moreau et al. US Patent No. 5,843,499 is directed to an oil extractable from corn fiber which is said to contain sterol fatty acid esters, free sterols, diglycerols and ferulate (sterol) esters. Moreau et al. indicate that extracted corn fiber oil can be added in effective amounts to margarine formulations, but the Office points to no teaching by Moreau et al. of use of their oil as a gel. Instead, in its Section 102 rejection of claims 1, 2, 4, 6 and 9, the Office emphasizes lack of quantification of the gel firmness. Claims 1 and 14 have been amended to incorporate the limitations of claim 8, namely, that the Stevens 4.4 hardness is at least 20 grams. Accordingly, claim 8 is canceled without prejudice. Since the Office points to no teaching by Moreau et al. concerning use of their oil as a gel, it is requested that the section 102 rejection be withdrawn.

In its Section 103 rejection, the Office points to Moreau et al. and also to Jandacek GB 1 413 102. Jandacek teaches an edible oil for food compositions in admixture with 2 to 6 wt% plant sterol and 0.5 to 15 wt% of a solubilizing agent. Again, the Office points to no indication that the oil should be used as a gel. Rather the Office points to the fact that the invention can be used in certain foods such as peanut butter and

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mayonnaise. Jandacek characterizes these as oleaginous gel foodstuffs, but this is hardly a clear teaching that his oil is used as a gel or that the levels of firmness recited herein should or could be attained.

Claim 8 is rejected further in view of Lansbergen US Patent No. 5,547,698 or Sassen US Patent No. 6,069,351 (presumably intending US Patent No. 6,096,351). In Lansbergen, several Stevens values are given in column 4 for the spread product. It is not apparent that Lansbergen teaches an organogel which has a Stevens 4.4 hardness of at least 20 grams, measured at 20°C. Similarly, while Sassen US Patent No. 6,096,351 discloses Stevens values for spreads in columns 10 and 11, he does not appear to teach the recited organogel having a Stevens 4.4 hardness of at least 20 grams, measured at 20°C.

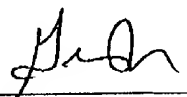
Claim 14 is rejected under Section 102 in view of Carlsson et al. US Patent No. 5,716,639. Even if this reference or its PCT publication were to constitute prior art, the Office points to no teaching of the presently recited molar ratio of sterols to sterol esters in the range of 1:5 to 5:1. Indeed, it may be questioned whether Carlsson et al. even contemplate use of sterols and sterol esters together. Their presence on the same list in Col. 1 hardly suggests that. Moreover, the office points to no teaching by Carlsson et al. of use of phenolic esters of sterols.

In view of the foregoing, it is respectfully requested that the application, as amended,

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be allowed.

Respectfully submitted,



Gerard J. McGowan, Jr.  
Attorney for Applicant(s)  
Reg. No. 29,412

/gjm  
(201) 840-2297